

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSTIN WESTHUIS,

Defendant.

Case No. 1:09:CR:229

HON. GORDON J. QUIST

MEMORANDUM

Defendant Justin Westhuis has filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to drug quantity.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to drug quantity, and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10(c).

However, the defendant is not eligible for a sentence modification because he was sentenced as a career offender. As a career offender, the defendant's sentencing guideline range was calculated under U.S.S.G. § 4B1.1, not under U.S.S.G. §§ 2D1.1 or 2D2.1. Therefore, Amendment 782 does not retroactively lower the defendant's sentencing guideline range. Accordingly, Defendant Justin Westhuis' motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2) and for appointment of counsel (docket no. 181) will be denied in a separate Order.

Dated: March 6, 2015

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE